

**MAINTAINING
YOUR UNION FREE STATUS**

THE AMERICAN

CONSULTING GROUP, INC.

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Presents

MAINTAINING YOUR UNION FREE STATUS

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INTRODUCTION

This handbook is designed to provide you with meaningful information about unions, their techniques in organizing employees, union campaigns, the election process and what employers can and cannot do.

It also includes a number of suggestions for employers to consider implementing that will make it very difficult to unionize your employees.

In the 1980's unions went through a process of reorganization and reflection. Smaller unions were absorbed by larger unions. Many unions decided to pool their resources and merge. The AFL-CIO was busy during this decade developing a new approach for selling unionism. We've seen some of this on a pilot basis in the very late 1980's. Unions have been advertising with the slogan "Say Union, Yes." They've gotten a number of our more liberally bent actors and actresses promoting unionism. Ed Asner has been particularly active.

We've also seen new union organizing techniques emerge. Essentially union organizers are staying underground in efforts to organize several employers in an area or industry. They don't file for an election until they get at least an eighty percent showing of interest by employees at one of the employers' facilities targeted. They will then blitz that employer with a campaign that includes radio and TV slots, media rallies support from their political friends and a constant baiting of employers at campaign meetings to commit unfair labor practices. Their objective is to win big and then use that victory and its bandwagon psychology to organize the other employers targeted.

We expect the decade of the 1990's to produce renewed union vigor in organizing the unorganized. We believe employers must start preparing now to meet this challenge.

The American Consulting Group hopes you will utilize this handbook to your advantage. For further information about our company and its services, we invite you to contact us at any of the offices listed at the front of this booklet.

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UNION ORGANIZATIONAL DRIVE TECHNIQUES

I. UNION "PLAYS UP" THESE SUBJECTS

- A. Employees non-union wages and benefits are not as good as union won wages and benefits.
 - 1. Attack merit systems on basis of favoritism.
- B. Employees need a voice to represent them. The union and the strength of its members will make the boss listen. Only the union can solve your problems!
- C. Employees need union protection so they can't be fired at the whim of the boss. With a union you have seniority, a grievance procedure and arbitration. Without the union, if you don't like something the only thing you can do about it is quit!
- D. The boss doesn't want the union because he knows unions have the strength to bring a fairer share of the profits back to the workers' pockets.
- E. Employees need a contract to protect themselves against unilateral action by the boss.
 - 1. Labor contract protects against unilateral change. This argument is strong where:
 - a. Benefits have in fact been reduced.
 - b. Employees have been laid off out of line of seniority.
 - c. Employees have been recalled out of line of seniority.
 - d. Employees have been dismissed or retired at age 70 with no explanation except that it was employer policy.
 - e. Increased employee contributions for group insurance were necessary; even though the employer shared part of the increase, increase became necessary because of continuously higher cost of insurance.
 - f. Jobs have been combined so that employees were doing more for the same rate.
 - g. Work is subcontracted with consequent layoffs.

II. A UNION THAT HAS PRODUCTION AND MAINTENANCE EMPLOYEES ORGANIZED HAS ITS FOOT IN THE DOOR TO ORGANIZE OTHER DEPARTMENTS OR PLANTS OF THE SAME EMPLOYER. WHITE COLLAR ORGANIZATION OFTEN HAPPENS THIS WAY.

- A. Union pitches "take credit" reasoning - they got "office workers" that improved benefits by negotiating them for the factory workers.

1. Lesson - management must get full credit for bestowing benefits to its unorganized workers.

III. THE UNION "SET UP"

- A. A union will convince one of the "less astute" employee union advocates to go up to the boss when the drive is just getting started and tell him to tell the boss "this place needs a union and I'm going to do something about it." The unwary boss fires the employee, an unfair labor practice (ULP) is filed, the employee is reinstated, and the union gets the credit. Now the employer must post a notice that "he will not interfere with, restrain or coerce employees in exercising their rights to join or not to join a union" - this the union takes full advantage of in a campaign.

IV. ORGANIZING THROUGH IN-PLANT COMMITTEES

- A. Make employee contact - follow up at homes.
- B. General meeting is called at one of the employee's home. The organizer:
 1. Reviews area contracts (with better benefits).
 2. Uses soft sell - stresses employees must do the work if they want a union.
 3. Tells employees not to worry about 25 percent "pro- management" die-hards. Go after the 25 percent union sympathizers and the 50 percent fence post sitters.
 4. Tells pro-union employees to select a "target" employee (usually a person popular with others).
 - a. He is urged to sign up.
 - b. If that doesn't work, the union uses a "relay" system where pro-union employees hit him to sign up each half hour or so. The man is pestered to death so signs to get them off his back. Once he signs, it is circulated within the area of employees likely to follow him.
- C. The union often notifies the employer - advising him of organizational activity and warning him not to interfere. Also advises organization of names of union organizing committee.
 1. The technique is used to get the employer to sit still and do nothing. It also satisfies the burden of proof that the employer knew what employees were involved with the union.
- D. The union will file a phony ULP at first layoff or even discharge for cause, for propaganda purposes. It is important to fight them to a conclusion rather than settle, which is precisely what the union would prefer.
 1. ULP's are often filed by the union for propaganda purposes, stirring up emotion in the voting unit, (that is, organization breaks law - charges filed by union against XYZ organization).

THE HIGH COST OF UNIONISM

I. COST OF UNIONISM

A. Contract Negotiations

1. Management time
 - a. Preparation for negotiations (anticipating demands, conducting surveys, costing our economic issues, developing strategy, strike preparedness)
 - b. Actual negotiations
2. Lost time - Union Committee

B. Contract Administration

1. Management time required in processing grievances, record keeping, checkoff of union dues, preparing for arbitration.
2. Lost production of employees involved in grievance processing "Politics"!
3. Cost of arbitration
 - a. Arbitrator's fee
 - b. Attorney's fees
 - c. Lost time
4. Possible unfair practice charges
 - a. Attorney's fees
 - b. Lost time
 - c. Potential dollar liability (back pay)

C. Strikes

D. Inventory Buildup (to protect against strike)

1. Inventory carrying charges
2. Overtime premium caused by inventory buildup
3. Layoffs and unemployment compensation liability in event contract is settled without a strike with inventory cut required.

E. Customer Hedge against giving unionized organization all or most of its business because of supply cut-off in the event union calls strike (Lost Sales = Lost Profits).

- F. Costly Contract Restrictions (interfering with management's inherent rights)
- G. Hiring And Retaining High Caliber Employees due to union dues and initiation fees/seniority rules.

NOTE: Studies show that with union and non-union employers standing side by side, paying identical wages and benefits, it would cost union organization 25 percent more to operate.

- H. Pitfalls of Sweetheart Union concept.

II. CONTRACT RESTRICTIONS

A. Express

B. General

1. Discipline for just cause only
2. Default (need for trained supervisors)
 - a. Assignments between classifications
 - b. Job content
 - c. Union activities in plant
 - d. Standards for promotion
3. Implied Restrictions
 - a. Decisions that negatively affect bargaining unit
 - b. Subcontracting - transferring work to non- bargaining unit personnel.

UNIONS RELY ON:

- c. Recognition clause
- d. Classifications and job descriptions
- e. Seniority provisions
- f. Covenant of good faith
- g. Intent and purpose clause
- h. Restrictions on work assignment
4. Past Practice
 - a. Correct by modifying the circumstances under which the practice developed. Practices are subject to the right of management to make changes and improvement in TECHNOLOGY AND METHODS.

III. EXPRESS RESTRICTIONS IN TYPICAL CONTRACTS

- A. Subcontracting work
- B. Relocation of facilities
- C. Successor's clause
- D. Strict seniority - promotions, layoffs, etc.
- E. Voluntary overtime
- F. No overtime while employees are on layoff
- G. Adjusting a job rate when the job itself is simplified
- H. Assigning certain work to employees outside unit
- I. Determining work hours, starting times, shifts, etc.
- J. Introducing new or automated methods or machines
- K. Manning provisions
- L. Assigning an employee work outside his/her classification
- M. Open-ended grievance procedures
- N. Broad interpretative powers to arbitrator
- O. Bargaining during contract term (no zipper)
- P. Restrictions on combining jobs
- Q. Restrictions on determining job duties and content of standards
- R. Restrictions on incentive system or standards changes even though means, methods and materials of job change
- S. Discipline and the need to prove just cause before arbitrator
- T. Union activities on employers' property and time
- U. Union representative permitted on premises to observe if contract is being complied with
- V. Mutual agreement clauses
- W. Hiring hall arrangements
- X. Union Shop - dues and fees impede recruitment
- Y. Joint Union Management Committee - grievance, safety, job evaluation, etc.
- Z. Restrictions on plant shutdowns for maintenance and repairs, vacations, etc.

STEPS TO MAKE A UNION UNNECESSARY

I. INTRODUCTION

- A. Trends in Organizing
- B. How Organizing Begins
 - 1. Union Initiated
 - a. Locational reasons
 - b. Industry reasons
 - c. Others

II. CONDITIONS THAT CAUSE UNIONS

- A. Poor Communications Up and Down
 - 1. Downward Communications
 - a. Employees want to know in advance about matters that affect their jobs.
 - b. Employees want to know about the organization's business.
 - c. Employees want to know about policies, particularly personnel policies that effect them such as:
 - (1) How salaries are determined
 - (2) How benefits are determined
 - (3) Rules they must follow
 - (4) Procedures they must follow
 - 2. Upward Communications
 - a. Employees want to feel that management listens. They will accept "NO" as long as they have reasons.
 - (1) Supervisors role in communications
 - (2) Departmental meetings
 - (3) Employee communication meetings
 - (4) Supervisor review meetings
 - (5) Our opinion on suggestion systems
 - 3. Communications Between Shifts
 - 4. Communications Between Departments
 - 5. Downward Communication Vehicles That Make Sense

- a. Letters to the home under the signature of the president, administrator or top line manager at the facility.
 - b. State of the business meeting once or twice a year, by the president, administrator or top line manager at the facility.
- B. Inept Supervision - Selection/Training/Supervisor Needs
 1. Selecting supervisors with technical skill and good production records, rather than on leadership qualities.
 2. Supervisory Training
 - a. Treat employees with dignity and respect (human relations skills) and avoid favoritism
 - b. Fairness, firmness and consistency
 - c. Individual differences in people
 - d. Handles discipline situations
 - e. Policies, procedures, rules and regulations, fringe benefits, compensation guides
 - f. Keeps promises/understands need for feedback
 - g. Has the answers
 3. Supervisor Needs
 - a. Pay differential over those he supervises
 - b. Informed first - doesn't need to rely on grapevine
 - c. Instruction in policies, procedures, fringe benefits, human relations skills
 - d. Not being short-circuited or undercut
- C. Insecurity
 1. Seniority - layoffs, recalls, shifts, work schedules, promotions
 2. Grievance Procedure
 3. Discipline Procedure
 - a. Informed on behavior expected - rules, regulations
 4. Layoffs - automation, production planning
 5. Stabilized work schedules
- D. Selection / Orientation / Promotion / Terminations
 1. Check employee's previous work record; especially the employee's attitude.

2. Be careful before hiring those:
 - a. Who are over qualified
 - b. Who would take a cut in pay
 - c. Who have unrealistic wage and promotion expectations
 - d. Who show signs of egomania/paranoia/immaturity
 - e. Who have deep personal problems (debt, drugs, alcohol)
 - f. Who had poor attendance records at school or with previous employers
 - g. Others
 3. Proper use of orientation program and probationary period.
 4. Failure to make real effort to fill job openings from within.
 - a. Failure to review jobs for upgrading when there are changes in means, methods and/or materials
 5. The use of exit interviews with terminating employees.
- E. Wages and Benefits (the negative motivators)
1. Wages
 - a. Competitiveness in community/region
 - b. Automatic progression vs merit
 - c. Proper supervisory administration of program
 - d. Develop trusted means for convincing employees of fairness of wage program
 2. Benefits
 - a. Competitiveness in community/region
 - b. Benefit administration and morale problems associated with poor administration.
 - c. Factors to consider when designing a benefit program:
 - (1) Coverage exceptions vs deductible with no exceptions
 - (2) Administration
 - (3) Employer contribution level
 - (4) Other
 - d. Effectively communicating benefits

HANDLING THE UNION CAMPAIGN

I. INTRODUCTION

- A. Unions organize to generate revenue, not to benefit employees.
- B. Union initiated activity - and why?
- C. Employee initiated activity - and why?
- D. Size and location of target facility
- E. Research on employer
- F. Employee/community contacts
- G. Secret versus open organizational effort before petition is filed
- H. Committees
 - 1. In plant
 - 2. Telephone
 - 3. Home visitation
 - 4. Entertainment
- I. Filing petition - timing (filing ULP)
 - 1. Making demand on employer for recognition
- J. Designing campaign issues peculiar to facility being organized - relating where possible to value of joining XYZ union. Typical issues.
- K.. Communication issues
 - 1. Home visits
 - 2. Group meetings
 - 3. Literature, handbills, pamphlets
 - 4. Newspaper, TV, radio - size of target facility a factor
- L. Using and abusing the National Labor Relations Board (NLRB)
- M. Using politicians who owe their election to union interest groups
- N. Using religious leaders
- O. Recognitional/informational/secondary picketing
- P. Union campaign strategies and timing
 - 1. Conning, coercing and intimidating the target employees
- Q. Restrictions on union campaigning

II. ORGANIZATIONAL STRATEGY AND TACTICS

A. Pre-petition activity

1. Authorization cards and what they mean
2. Employer's position on union
3. Identifying and resolving problem areas
4. Instructing supervisors
 - a. Management's position on unionism
 - b. Supervisors are management
 - c. Need for upward communication and feedback - what to look for
 - d. Supervisor's role - an active one
5. What to do if union organizer calls /demands recognition

B. Petition filing

1. Determine whether quick or late election is desired
 - a. Quick - consent or stipulated consent agreement
 - b. Late - litigate legitimate issues at hearing
 - (1) Jurisdiction of Board
 - (2) Bargaining unit determination
 - (3) Voter eligibility (e.g. laid off employees)
 - c. If hearing - post hearing brief, exceptions to decision of Regional Director

C. Research Union and Organizer

1. LM-1 and LM-2 reports and what they show
2. Union's Constitution/By-Laws
3. Strike history
4. Contact other plants/facilities organized by same union
 - a. Review wages/benefits - expose union's phony tactics
 - b. Review contract language - expose union's phony tactics
 - c. Find out dues, initiation fee paid
5. Other sources of information on union

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D. Designing Employer's Campaign

1. Determine company weaknesses - resolve all problems possible within the law; prepare defense arguments for those that can be resolved
2. Determine company strengths
3. Determine union's weaknesses
4. Take the offensive if possible and tailor to your people; avoid generalized campaign
 - a. Union weaknesses/company's strengths
 - b. Openly and candidly admit weaknesses. Honesty is the best policy. Most employees will respect you for it.

E. Pre-Election Reminders

1. Selection of observers/instructions
2. Review Excelsior List for changes - terminations, permanent layoffs
3. Review employees on leave of absence, vacation, sick leave; strategy in such cases

F. Election

1. Mechanics
2. Observers and their roles (particularly with conduct of election)
3. Objectionable election activity

G. Post Election

1. Victory
 - a. News release
 - b. Evaluate campaign
 - c. Correct deficiencies which created union problem
 - d. Maintain relationship developed with employees during campaign
2. Loss
 - a. Review union's campaign conduct and determine if election objections are in order

GUIDE FOR KEEPING UNIONS OUT OF YOUR FACILITIES

I. GENERAL MATERIAL

Many studies have been taken on the cost of operating a given plant or facility with a union, as opposed to operating that same facility non-union. You might be surprised to learn that their most conservative estimate shows a non-union facility was 25 percent lower in operating costs, assuming equal wages and benefits.

What accounts for this difference? Consider these factors - A union operates, functions and survives as a political organization. It lives on the raising of grievances, not necessarily on the winning of them. The shop steward serves as defense counsel for the employees he represents, even though they don't deserve being defended. A union cannot join or cooperate with management in managing employees. On the contrary, to survive, it must drive a wedge between employees and the employer so that employees are convinced that without the union, the employees would be in the involuntary servitude and mercy of a ruthless management. Union goals for employees and themselves fall into direct conflict with the business motive of management. Some examples:

- A. A union's goal may be to organize all the facilities of an employer to gain for itself maximum bargaining power. Anyone who has been in the labor business for any length of time knows that when a union gains strength, the strike issues are compulsory dues through a union shop, checkoff and extraordinary contributions to the union welfare funds. Oh yes, and just enough for the troops they represent to keep them happy and docile. Should they become unhappy, look out; today's "good" union may become tomorrow's "horror." Survival is the name of the game, and there are other unions waiting in the shadows to jump in and get a piece of the action if the incumbent union doesn't produce.
- B. Goals for employees fall into these categories:
 - 1. Straight seniority to determine layoffs, calls and promotions - performance and ability no longer count.
 - 2. Classifications - that is, employees shall not perform work outside of their job classification - that's someone else's work.
 - 3. Overtime - employees should only have to work it when they want to, not when the employer needs it. Or, the most senior person should get his/her choice to work overtime first, even if their not particularly well qualified to perform the work.
 - 4. Schedule of hours - the employer shall only work employees during certain hours notwithstanding it makes sense to change these hours; or, if the

*Is this not a major cause of our country's economic woes (low productivity, foreign dominance in the marketplace, inflation)?

union lets you work outside these hours, the employer must pay a premium rate.

5. Part-time employees cannot be hired - even though you don't have a full-time job.
6. No subcontracting - even though it costs 50 percent less to perform the work through a subcontractor because of his special tooling and equipment.
7. Restrictions on discharging the malingering employee (after all, he's the one who helped get the union in). You are forced to prove your case beyond a reasonable doubt; even then, you still may lose an arbitration case because it went to a "do gooder" arbitrator.
8. Establishment of adverse practices - anyone who has been exposed to a union knows the pitfalls to productivity in this area.

The foregoing points were not picked out of the air - a clause of this type can be found in most any union contract. There are a "zillion" more we could discuss, but the point should be clear; even without the hours of management time wasted in processing grievances, preparing for negotiations, coping with uncalled-for strikes and preparing for them, a union works contrary to our country's best interest.

Some argue, let's "buy" a union and get a "sweetheart." In some areas where unions and politicians have been proven to be totally corrupt, this alternative, even though unpalatable, may be the only alternative. This is so only because the union movement in these areas works almost like a "protection syndicate," to wit, sign the authorization card or we'll beat your brains out!!! Although this is clearly illegal under the law, it happens every day. The wisest thing to do is avoid these areas.

However, where these conditions do not exist, "buying" a union and getting a "sweetheart" really is an admission of ineffective management - a management that believes it will inevitably be organized - so why fight it. If that were true, why are so many large organizations totally non-union (IBM, Texas Instruments, Illinois Tool Works, etc.)? Some argue that you can get away with low wages and benefits with a "sweetheart" union. This is false economy for several reasons; the most important of which is that unless you are competitive in the area in which you're located, you will draw only marginal employees (lower producers others don't want); any good ones you already have are going to turn to greener pastures. When you start calculating your turnover, absenteeism, training costs and product quality rejections, it will be easy to see where you come out on the short end of the profit stick. You can pay a top-notch employee \$8.00 an hour, and, if he produces, you can come out better than if you hired two marginal employees at minimum wage. In any event, sooner or later, another union will start working around your employees represented by the "sweetheart" union. When that happens, look out. Your honeymoon will be over!!

Now let's turn to what employers can do to keep unions out.

II. WHY EMPLOYEES ORGANIZE

A. To Satisfy Their Need To Communicate

1. Poor communications is perhaps the major single cause for employee unrest. Employees, particularly the younger generation, want a piece of the action; they require a feeling of involvement, to be "in" on things, especially those things that affect them on their job. They want to be made aware of the employer's business (sales, products, problems, especially when it involves the employees, to wit, mismarked merchandise, too much absenteeism, poor quality, etc.; new machinery and equipment; new facilities; etc.) and the "whys and wherefores."
2. At the same time, they want supervisors and management to listen to their ideas, problems and suggestions. If your employees know they are being heard and considered, you are well on your way to a union-free and a more productive and efficient work force.

B. To Satisfy Their Need For Dignity

1. A well trained supervisor recognizes it is his/her primary function to get work out of those he supervises. He has a clear understanding that morale and productivity will be improved in the supervisor/manager:
 - a. Treats employees firmly, fairly and consistently without favoritism for a few.
 - b. Remembers that each employee is different from any other, having a unique personality and problems. That is the supervisor's job, to be aware of these differences while giving attention to the problems of the employees supervised.
 - c. Has the intestinal fortitude to periodically discuss in a tactful and constructive way, after getting the facts, those shortcomings an employee may have and the intestinal fortitude to discharge those employees who continue to be unsatisfactory performers after corrective action is taken - for he/she knows that good employees will lose respect if he or she fails to discipline employees who need it and that they will think these sub-marginal performers are being shown favoritism. We all know that union organizers often start a drive with the disgruntled worker, the one who shirks his responsibilities.
 - d. Gives full credit and appreciation to employees for doing good work recognizing that this is how you build a winning team.
 - e. Commands the respect of employees because the supervisor takes the time to become informed in depth about the employer's fringe benefit programs and how they work, organizational policies and procedures and is the employees' source of information. The effective

supervisor doesn't put employees in the position of seeking the answer elsewhere - and also won't say, "I'm sorry, but that's what management wants." Instead say, "this is the new policy and these are the reasons why it was necessary to implement."

- f. Knows it is important that when a promise is made to find out something for an employee or to do something for an employee that the supervisor can be relied upon to act without undue delay. The supervisor also recognizes the need to feedback to the employee the status of a promise. It is recognized that if one is ever to be a respected leader, an attitude of trust among employees must be developed.
- g. Recognizes the need to discuss mutual work problems, policies and procedures with all other supervisors so all are acting consistently. It is the beginning of the black plague when one supervisor allows freedoms and exceptions that another doesn't permit.
- h. Understands that new employees are most impressionable and works hard to shape their attitudes in healthy and productive ways during their first several months of employment; quickly corrects those who don't come around.
- i. Gives employees as much advance notice as possible on all matters that affect the status of the employee's work environment. Knows that even the relocation of a water cooler without advance discussion with employees can cause serious morale problems.
- j. Is clever enough to convince members of management that the supervisor has needs too - such as:
 - (1) More money than those supervised; at least 10 percent more than the highest paid worker supervised. A supervisor cannot be looked upon as a figure of authority and prestige if the employees know that with overtime they make more money than their boss does.
 - (2) To be informed about things as soon as possible so that the supervisor can give employees the news before they get it from somewhere else first; if they get the news from another source first, they will believe management has little regard for their supervisors.
 - (3) Training and instruction in benefit programs, policies, procedures and orders from the "top" so he/she can explain them intelligently to employees. If the supervisor is brand new, sufficient training and indoctrination should be given before the supervisor is thrown to the wolves; for that is the easiest way to lose respect.

- (4) Superiors need to work with employees through the supervisor and not short-circuit him/her as the source of the action. A supervisor needs to be supported in decisions; when it is necessary to reverse a decision, the supervisor should be given the opportunity to make the reversal known to employees as if he or she had made the final decision.
2. Management Can Encourage Unionism and Disregard An Employee's Dignity By:
 - a. Giving employees only a minimum of information about the status of the employer's health, its financial position, its goals, sales and production achievements.
 - b. Introducing changes in equipment, tooling or policy without advance notice or explanation to employees.
 - c. Making key decisions in a vacuum of ignorance about what their employees really want.
 - d. Using pressure tactics, not leadership, to secure high production and productivity.
 - e. Downplaying employee dissatisfaction.
 - f. Failing to carefully select, train and develop supervisors on the grounds that all that matters is technical know how - forgetting somehow that 90 percent of a supervisor's job is motivating people to produce good quality products in sufficient quantity. Then after selecting their supervisor, wherever possible, short-circuiting them by their actions.
 - g. Disregarding the need to provide clean and adequate locker rooms, sanitary facilities, lighting, ventilation, and related working conditions, not to mention proper safety guards and equipment on the grounds we can't afford such luxuries.
 - h. Failing to review "insiders" and their potential for advancement in the organization on the grounds workers aren't really interested in advancement. Besides, it's easier to hire someone from the "outside" even though we do have a few people qualified on the "inside."
 - i. Disregarding the importance of a well planned indoctrination program and its influence on the new employee.
 - j. De-emphasizing the importance of the employee's job to the employer's success, and how the employee contributes to the end result.

C. For Wages and Benefits

1. Employees do not usually organize on the issues of wages and benefits even though they are not the best. However, once you fall behind the "going" wages and benefits in your community, even a little, you have created a powerful demotivator and alienator of affections. Therefore, we must make sure our employees know how we determine the "going rate" making our presentation as open and candid as possible.
2. Another sure way to be sure a lot of employees are unhappy with you is to establish a wage range, leaving adjustment within those ranges to merit. Non-supervisory workers, unlike salaried employees, are not used to the merit system. Consequently, no matter how your supervisor administers within it, it is going to be wrong in the eyes of the employees. Is one employee worth five cents more than another? Maybe so, but you will never prove it to the employee who is getting five cents less.
3. Having good benefits is one thing. Making sure employees know what they have and how good they are is another. Employees who do not know of the benefits that have been established for them will be far more susceptible to union promises than those who do know. Poor communication of the details of fringes can also lead beneficiaries to believe they are entitled to benefits that do not exist - another morale killer.

D. For Security

1. Blue collar workers fought hard in the 1930's and 1940's over the principle of seniority because of insecurity they felt from being subject to frequent layoffs. There is no sound reason not to operate on the principle of seniority with the following qualifiers:
 - a. Layoff recalls - employees will be laid off and recalled on the basis of length of service provided they have the ability to perform the work available and their job performance (attendance, tardiness, quality, disciplinary record, etc.) has been satisfactory.
 - b. Promotions - qualified employees will be promoted on the basis of length of service unless there is evident a superiority clear and demonstrable to the employee group in an employee of short tenure.
 - c. Vacation preference, shift preference and like matters should be based on strict seniority.
2. Contracts negotiated in the United States always contain some form of grievance procedure. In Canada, the Ontario Labor Relations Act requires, by law, a grievance procedure terminable in compulsory arbitration. How come? The reason is simple: employees want some means to settle their grievances, and some means of appeal to a next step, especially in the matter of a disciplinary grievance. It is for their security. If you don't have

an orderly system for getting this job done (and an open door policy is not a grievance procedure), you may have a union bargaining with you for one.

3. When work rules, safety rules and the policy of enforcement are explained in detail to employees, they know what is expected of them and what will happen to them if they violate those rules. Although you may think such communications would have a negative effect, just the opposite is true. Employees want and need rules!! It is a form of security to them. When they get worried is when they don't know what to expect, and when someone gets the ax, they not sure why (in most cases).

III. STEPS YOU CAN TAKE TO PREVENT UNIONS

A. Location of Facilities

If you have the choice, consider carefully where you put your next facility. Granted you must consider the market you serve, your suppliers, transportation and a host of other things, but do not overlook the location from a labor relations angle as the latter can almost always be accommodated without messing up the former. Look at the following factors before you invest in that plot of land:

1. Consider the percentage of labor cost to cost of operations.
2. The prevailing attitude of local leaders and the general public in the community.
3. The available work force, skills and the probability of other firms competing for your employees moving in. Special concern should be taken if a high paying firm (auto industry firm) or heavily unionized firm (rubber industry firm) is moving in. A tight labor market and the potential of one of the aforementioned types of firms becoming your neighbor spells big trouble.
4. If you have a division with one or more facilities already unionized, consider how regional jurisdictions within major unions work before you decide on the proper location.
5. If possible, don't put all your eggs in one basket. Two or three facilities in different parts of the country, even if organized, will keep you in business if you are stuck.

B. Hiring

One cannot overstress the hiring and placement process. Doing a careful job in this area is half the battle. Depth reference checks before the employee starts are a must. A sloppy hiring process will inevitably lead to marginal employees, poor productivity, and the organization of your facility.

C. Communications

Recognizing this as one of the major keys to union-free management, it is important you consider implementing the following:

1. Communication Committee

A communication committee serves as an extremely important two-way channel of communication. It works like this: An employee is selected from each department on a random basis, both office and blue collar. The names of these employees are announced via bulletin boards. Employees may bring questions or problems through the employee representatives at the communication meeting for that month. Also, attending the meeting would be the local line manager responsible for that particular operation and the personnel director or manager as the case may be.

New representatives from each department are selected each month (also on a random basis) so that everyone will eventually have a turn to make their suggestions and express their views personally as well as bring to the attention of management the views of other employees.

A typical meeting starts out with the line manager bringing employees up to date on the state of business, its products, new machinery or equipment and related business matters. The personnel director normally takes over next and may discuss a specific fringe benefit or a specific problem involving employees that he believes needs correcting (e.g., poor attendance, extended coffee breaks, etc.). After this is completed, the meeting is turned over to the employee representatives.

It might surprise you to learn that about 90 percent of the employee's end of the meeting deals with constructive things (e.g., better service, better methods, ways to get more productivity, etc.). Usually only 10 percent of the meeting relates to employee gripes.

After the meeting, the human resources director has the responsibility to record the highlights of the meeting and put them in written form for distribution among all employees. This is an important aspect of the program as the human resources director can word this communication in terms most favorable to the employer. For example, if a problem is reported, he can report that it was reported and the action taken or to be taken to resolve the problem. Employees know, when this happens, that they are being heard and are participating.

2. Grievance Procedure

A grievance procedure is a form of upward communication. About as many non-union as union organizations have grievance procedures. Why? Because employees want some means of appealing their problems to management. Interestingly enough, you will find that the benefit is the employee knowing he has recourse.

3. Clearly Stated Policies, Procedures and Rules

The employer should have clear communicated policies on promotions, seniority, how overtime will be balanced among employees, the factors the

employer will consider if it has to lay off employees, rules for collecting holiday pay, etc. These rules and policies should not only be clearly stated in an employee handbook, but the personnel director should be made responsible for making sure supervisors and employees understand them thoroughly.

4. Clearly Explained Fringe Benefit Booklets With Supportive Material

Time and time again, management learns that employees (and that includes most supervisors) do not really know what they have in the way of fringe benefits. At one organization, employees who had a good hospitalization program before they were organized, demanded a hospital program in later bargaining because they thought they did not have one. It is management's responsibility to make sure supervisors and employees know what they have and how they stand in respect to the rest of the community.

5. Attitude Survey

This is a form of upward communication. Carefully worded questions will give an idea on what the employees think and is good as a periodic audit every year or so. However, extreme care should be used to assure that the true feelings of employees are gleaned and negative thinking is not generated. The survey should be both written and verbally conducted through ventilation meetings.

6. Appraisal Review With Employees

Since employees have a tremendous need (security need) to know where they stand, an employer makes a serious mistake if he or she does not sit down with employees every six months and tell them how they stand. If the employee is not doing a good job, coaching to do a better job can help. If that doesn't work, discharge may be necessary. No matter what the result of the employee's rating, it can be positively presented whether good or bad. It is extremely important to let the employees know where they stand.

7. House Organ, Newsletter, Letter to the Home

The importance of this media is to make the employee feel like part of the team. Unfortunately, it is often the case that the first letter to the employee's home is one by the president requesting that employees vote "no" in the forthcoming union election.

8. Indoctrination

We have stressed the importance of the new employee. This is an impressionable time. This is your opportunity to thoroughly explain benefits and policies and develop good work attitudes. A little more work during the indoctrination period will mean more production with less turnover.

9. Exit Interviews

An employee who leaves an employer will normally shoot straight in an exit interview. Carefully conducted interviews can sometimes disclose internal problems you never knew you had.

D. Supervisory Training

Good supervisory training is essential to the creation of a climate that makes unionism a forgotten word. This cannot be over stressed. Supervisors should be thoroughly trained in at least the following areas:

1. Human relations
2. Policies, procedures and benefits
3. Corrective discipline
4. Communications
5. Motivation
6. Leadership

E. Wages and Benefits

1. Make sure you are competitive in your community (but don't overlook what's going on in your region or nationally).
2. Consider automatic progression or a flat scale for blue collar workers rather than merit reviews. Office employees should be continued on the merit system as long as administration is properly handled.
3. Review, at least every six months, community, regional and national wage and benefit changes to make sure you are keeping pace.
4. Develop a trusted means for convincing employees you are keeping pace with the community and the country.
5. Make sure supervisors are properly administering wage and salary programs.
6. Make sure employees know their benefits and that benefit administration is top notch.

F. Maintain a clean and sanitary physical plant and provide good working condition

Develop a system for periodic review of facilities and working conditions. Often this responsibility is given to the maintenance supervisor.

G. Make sure you have a competent human resources professional

A competent human resources professional must administer benefits and policies effectively, hire qualified employees, train supervisors, review wages and benefits and administer and follow up on communication programs. Most importantly, the human resources professional can never let management forget its responsibility in the employee relations area.

GUIDELINES FOR THE EMPLOYMENT OF NON-SUPERVISORY EMPLOYEES

I. INTRODUCTION

These guidelines should help you in hiring good employees.

As we all know, good hiring practices alone will not preclude unionization. Employees strive for job security, participation in their work environment, dignity, and good wages and benefits. These employee needs can best be satisfied by good communications, well trained supervision, and periodic surveys of the going wages and benefits in your area. But be that as it may, good hiring practices are essential.

It is typical for a union trying to organize a facility to either make an attempt to infiltrate someone from the union payroll onto the plant payroll or as an alternative to find employees in your bargaining units who are dissatisfied. In the latter case, the union promises them the benefits of stewardship, jobs with the union, and/or special privileges if they will help in the organization of your plant. It therefore becomes extremely important that you have a good screening process. It goes without saying you must do your job before a drive begins in convincing your people they already have security without a union, participation without a union, are treated with dignity without a union, and have good wages and benefits without a union. Your ability to accomplish this depends on communications. When in doubt, it is better to over communicate. Occasionally, you should write a letter to the employee's home so the family also knows what is going on.

II. FACTORS TO CONSIDER IN HIRING THE BARGAINING UNIT EMPLOYEE

A. Supply of Labor Available

Fundamental in your ability to hire good employees is an adequate supply of good applicants. When your supply of good applicants diminishes, it is time to start thinking about starting a new facility in a state, area and community having comparable interests with your own.

If you attempt to operate in a super tight labor market, you are likely to be confronted with extremely high turnover, rapidly rising labor costs (to compete effectively with neighboring firms) and an increased propensity towards unionization of your facility. If your facility is already organized, it gives the union a sledgehammer during negotiations.

B. Attitudes and Behavior

Perhaps the most essential ingredients in hiring employees are character, interest, and ability. Statistical studies show that less than 10 percent of employees are discharged for lack of ability. It seems obvious then that character and interest of applicants is extremely important. Below you will find a list of things you can look for when hiring non-supervisory, production type applicants:

1. The Union Infiltrator - is typically the employee who will over emphasize disgust with unionism and will pitch his pro-management attitudes. When this happens, it's best to be skeptical. Run a thorough search of the employee's background as reported on the application blank. You will either find a falsified work history or this employee has organized some other facility and has since left. Many facilities are organized by the successful infiltration of an organizer. Such employees, if hired, are on two payrolls - yours and the union's.
2. Be careful before hiring the over qualified applicant. If you hire someone who is too bright or too skilled for the job, you are inviting trouble. It is fundamental that you match the applicant to the job. This can be determined by educational qualifications, testing and work history.
3. Be careful about hiring an applicant who would take a cut in pay. When applicants have received a higher rate of pay, they are used to a higher standard of living. By taking a cut in pay, they in essence will have to tighten their belt. In that case, it is logical to assume they won't like it. An employee seeking a job at lower pay is also your red flag to do a super thorough reference check to determine the reason why.
4. Be careful before hiring applicants with unrealistic wage and promotion expectations. You can normally determine this by asking the question, "Where do you expect to be five years from now, ten years from now?" If the responses are unrealistic, you can bet this employee will be one of the first to fall for the "better days are around the corner" pitch of the union organizer.
5. Be careful before hiring the person with a poor attendance record. The only way you can determine this is from a thorough reference check. Rest assured, if his attendance has been poor in previous places of employment, it will be poor with you.
6. Be careful before hiring prestige seekers. Prestige seekers almost always become dissatisfied when the job doesn't produce sufficient recognition.
7. Be careful before hiring frustrated or emotionally insecure people. Employees who are frustrated with their lives are almost always ready to climb on some bandwagon promising utopia.
8. Be careful before hiring the high turnover employee, one who has had several jobs in the last couple of years. This almost always raises a red flag.
9. Be careful before hiring applicants who have police records even though a probation officer may say it is the humanitarian thing to do.
10. Be careful before hiring the applicant who has work gaps in their work history. Unless there is a satisfactory explanation for such periods, it is best not to waste further time. Either they are lazy and haven't worked, or have something in their background they don't want you to know about.

C. Behavioral Styles Preferred In A Bargaining Unit

1. If available, hire the amiable, loyal, easy-going and relaxed person; one who is undemonstrative and controlled; one who has the tendency to build close relationships with his associates; one who is patient and deliberate; one who develops strong attachments and strong family ties.

The aforementioned behavioral style does not correspond to what you would look for in filling an executive level position. However, since you are hiring for a bargaining unit job with limited opportunity for advancement and more than the normal amount of routine, it is the type behavior best suited to non-supervisory work.

D. What Kind of Questions Bring Out The Most In An Interview Situation?

1. Tell me about your last job. What did you like about it? (Look for maturity, ambition, happiness with work, loyalty.) What did you dislike about it? (Where dislikes justified, has he/she resented supervision, did he/she get along with others?) Why did you leave your last job? (Check the soundness of the decision to leave, the stability, loyalty.)
2. Tell me about the people you worked with. Who did you like best and why? Who did you like least and why?
3. Tell me about your boss. What qualities did you like best and why? What did you like least and why? Do you feel you were treated fairly?
4. Tell me about yourself. What are your greatest assets? What are your weaknesses as you see them?
5. What are your plans for the future? How much money do you expect to make over the next five years? What do you think you will have to do to accomplish your objective? (This will almost always tell you whether the employee is mature or unrealistic.)

E. The aforementioned questions should give you a fair idea of the applicant's behavioral characteristics.

F. Recommended Screening Procedure

1. The receptionist or human resources clerk can normally review the application blank to discover the obvious situations disqualifying an applicant.
2. Further screening should be done by a trained and qualified representative skilled in interview techniques.
3. *If the applicant successfully makes it this far, it is essential that a telephone reference check be made on at least the last two work references. The contact should be the applicant's supervisor and not the human resources department. The following telephone inquiry normally gets good results:

"Mr. Jones says he worked for you from 1982 through 1989. Is this correct? Since you were his supervisor, I would appreciate obtaining some facts about him from you. What job did he hold with you? How much was he paid? How was his work? What problems did he have on his work? What are his greatest assets? What were his major problems? How was his attendance? How did he get along with you? With his fellow employees? Why did he leave? Did he have any outside trouble which interfered with his work? Would you rehire him? If not, why not?"

It is also a good idea to check the applicant's educational record; and this is obviously a must when the applicant is being interviewed without holding an intermediary job since graduation. It is particularly important to check school attitudes and attendance.

4. If the telephone references check out, the applicant can be conditionally hired subject to the results of a credit report and physical examination. We strongly recommend a credit report as an additional precaution that will develop further information on how the applicant meets financial responsibilities, whether there have been garnishments, or a previous police record. It may also detect something in the applicant's high school and business references that you were unable to uncover.

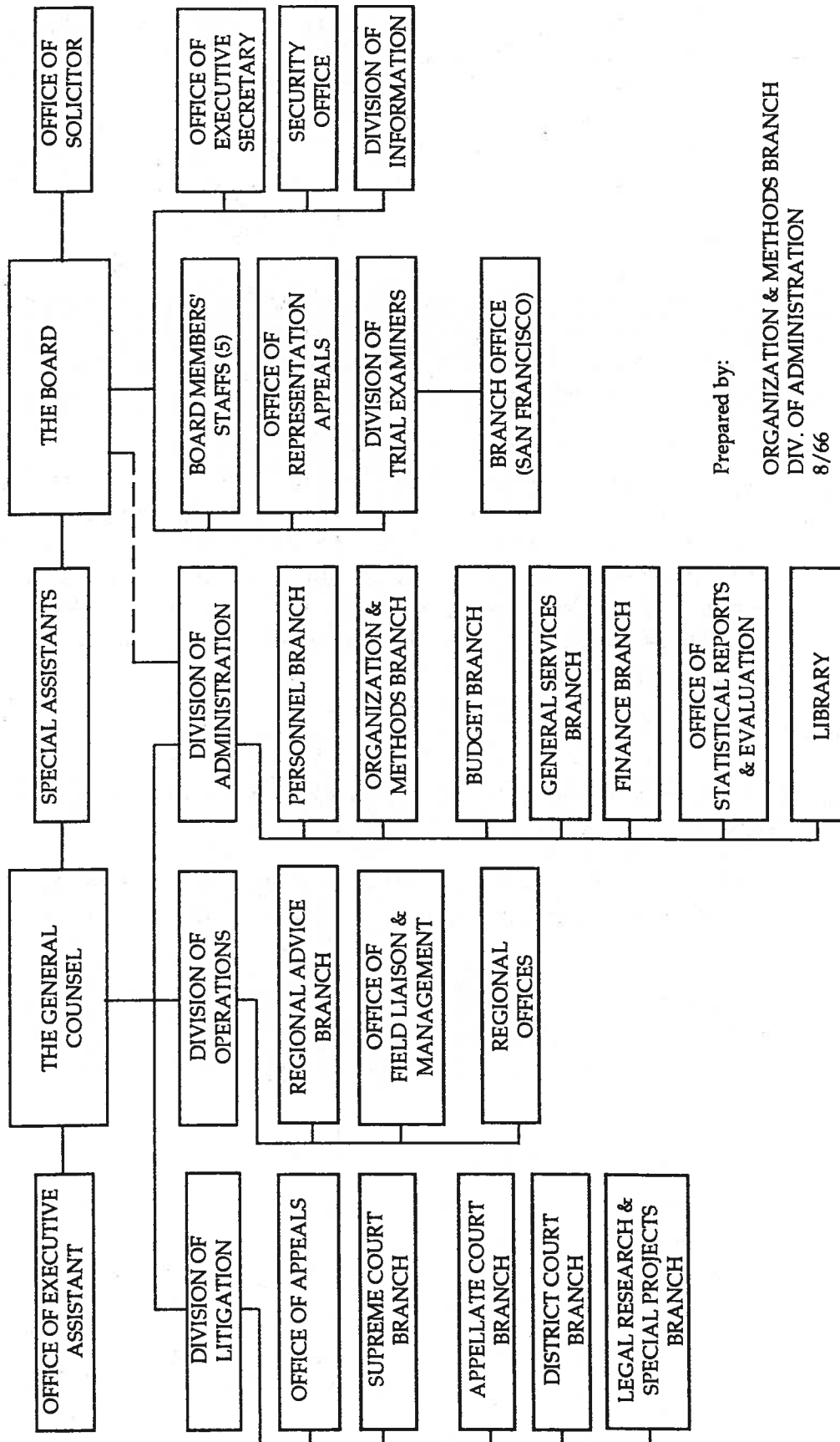
*Very important

III. SUMMATION

The aforementioned may be used as a guide in selecting employees for nonmanagement positions.

There will always be exceptions to everything and the purpose has been to clarify some of the things that you might consider doing to further protect yourself.

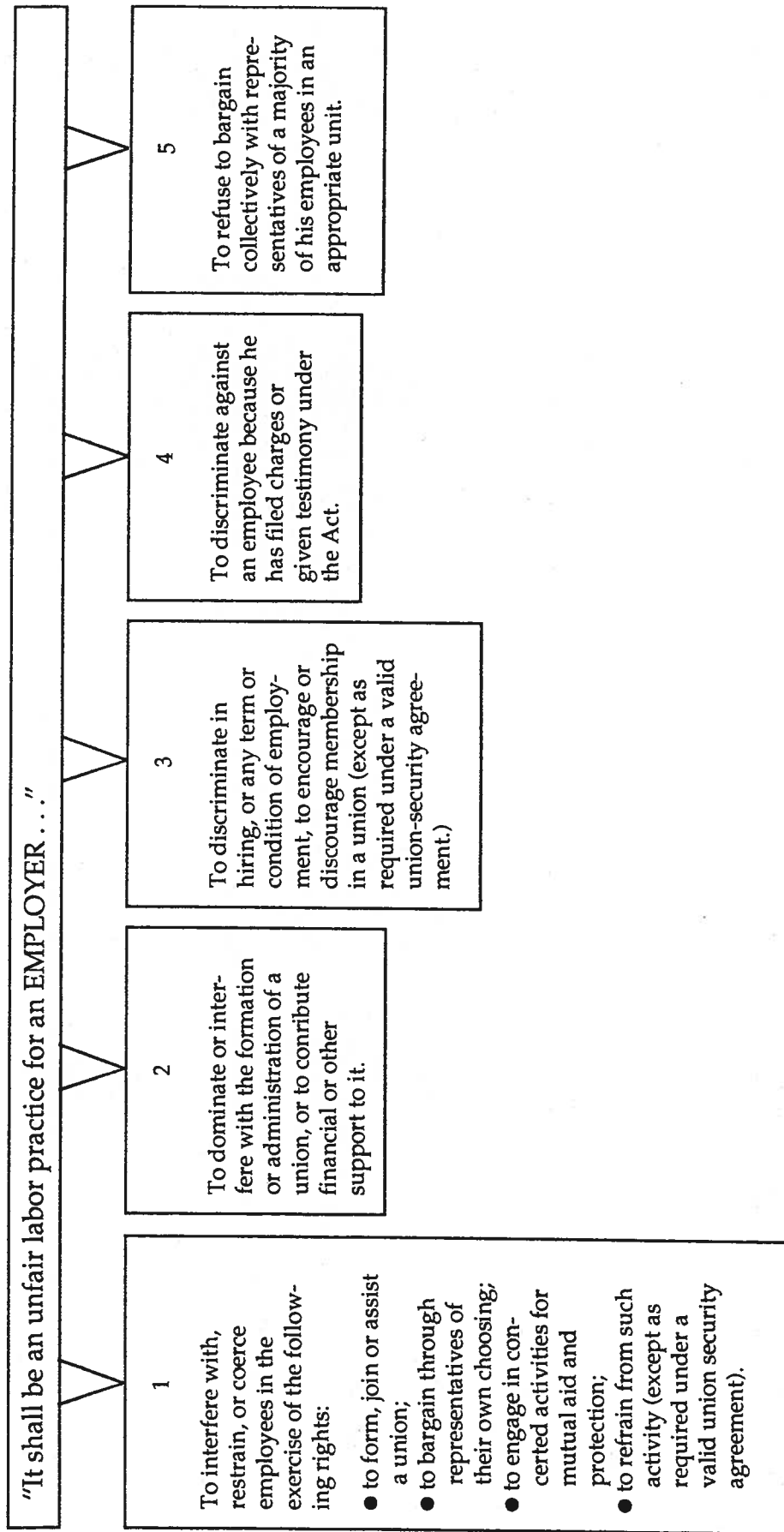
NATIONAL LABOR RELATIONS BOARD ORGANIZATION CHART



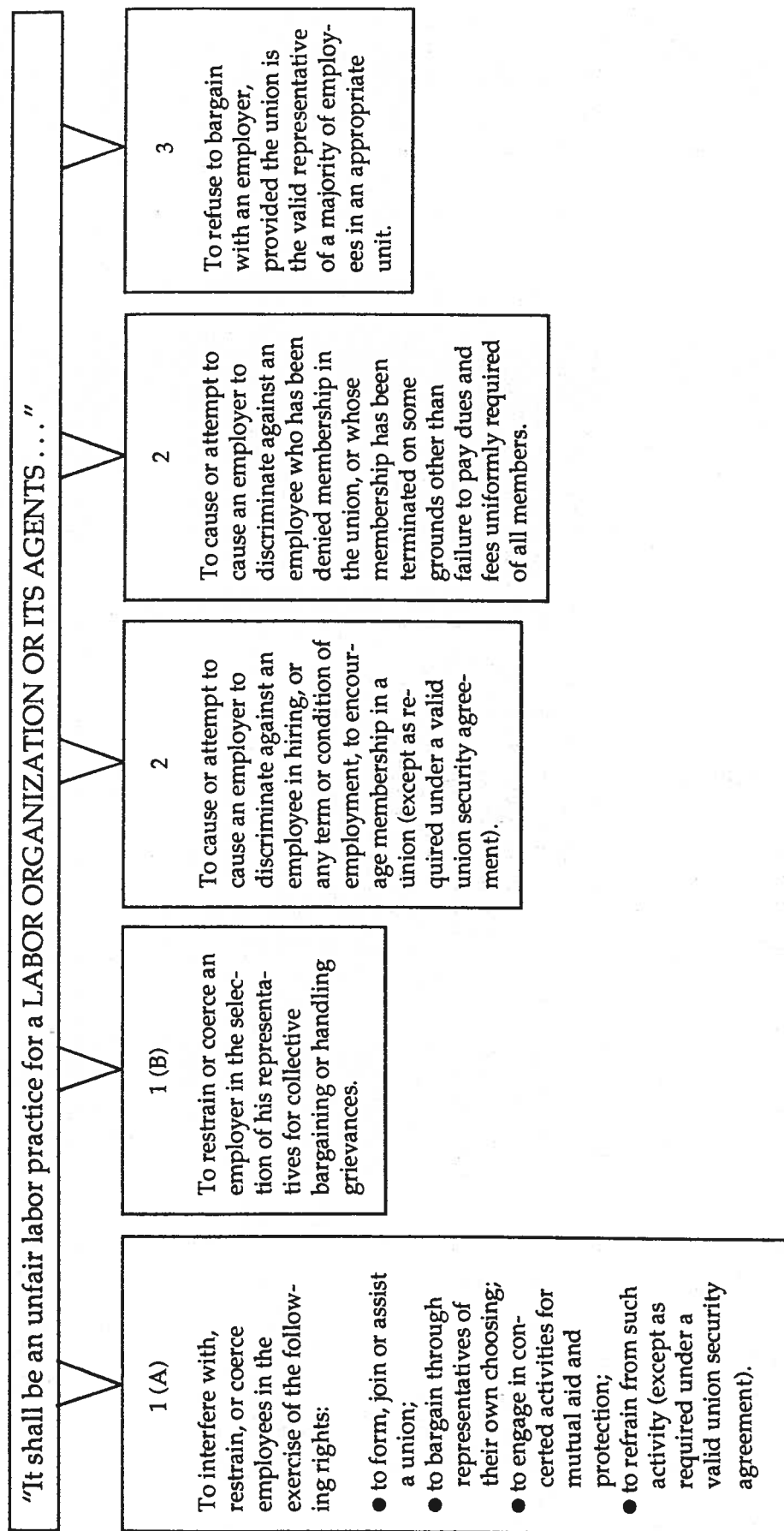
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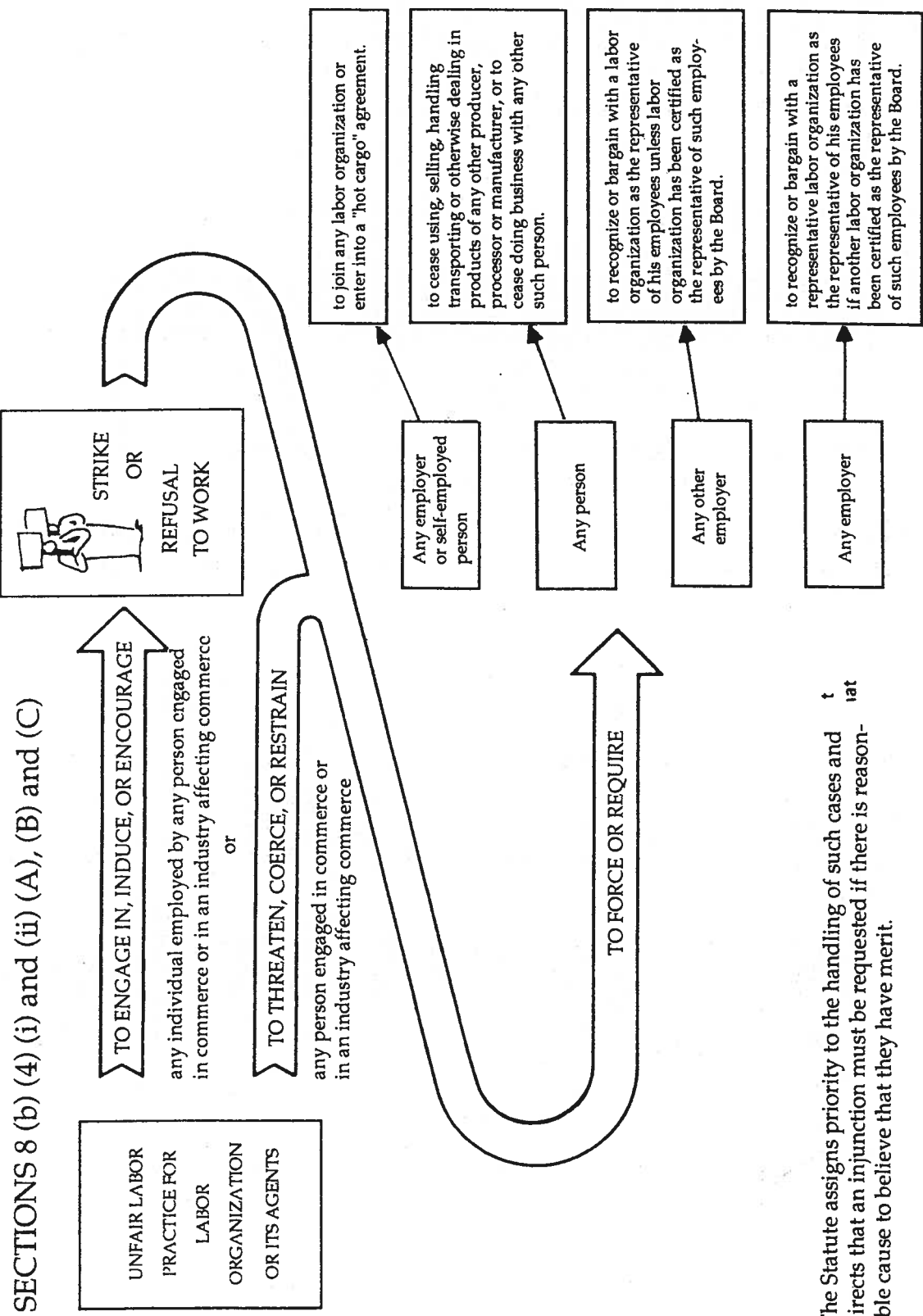
ORGANIZATION & METHODS BRANCH
DIV. OF ADMINISTRATION
8/66

SECTIONS 8 (a) (1) (2) (3) (4) (5)



SECTIONS 8 (b) (1) (2) (3)





The Statute assigns priority to the handling of such cases and directs that an injunction must be requested if there is reasonable cause to believe that they have merit.

AFFIRMATIVE MANAGEMENT ACTION

1. Be sure that working conditions are good, that wages and such fringe benefits as insurance, vacations, etc. are in line with others in your area and are as generous as can be reasonably afforded. Consider union rates in establishing both your minimum and going rates. Review the work of all employees periodically and consider wage adjustments where clearly merited by job performance.
2. Remember that each employee is different from any other, having his/her own personality and problems. Make every effort to be close to each employee by giving personal attention to problems.
3. Avoid future difficulties by carefully selecting and placing new employees, determining their background and attitudes before hiring them. (Persons with family responsibilities and ties are usually the most desirable.)
4. Emphasize to employees the importance of their job to the organization's success; how they contribute to the end result. Pride in their job.
5. Unions seek and attempt to "con" the natural leaders who can win multiple votes for the union. So fully cultivate these people, giving them a grasp of the organization's views and problems.
6. Prove by practice that everyone has equal opportunity for up-grading, that promotions will be made from within whenever possible providing everyone the chance for better jobs and more pay, based on merit, promotions from within.
7. The organization is more than just a place to work. See that employees understand matters concerning their work and the organization, and that they get such news before it is published locally, publicized, or put into effect. If necessary, write thoughtfully phrased letters to your employees and/or their families at their home addresses.
8. One who works to fulfill his/her own ideas works harder and happier, so solicit employees' ideas for improvements and solutions to problems. Keep communications between management and employees open on a two way circuit; participation and contribution to the team.
9. Give credit where credit is due. Be generous with compliments for work well done, appreciation for the individual contributions made. Correct mistakes but in terms of work being done rather than as a personal affront to an employee.
10. Adopt fair rules and enforce them fairly and uniformly. Favoritism destroys morale and breeds unions.
11. Try to fit employees into the jobs best suited for them. People must be interested in their work and like what they are doing to do it well. Misfits cause trouble in all areas of the work force including supervision.

12. Promote athletic contests, picnics and parties for employees. This encourages a team spirit, a gap which unions sometime pretend to fill.
13. Show that neither opportunities nor training cease when the management level is reached. Continually train both management and supervisors in improved methods not only technical but also in dealing with people.
14. When layoffs are necessary, determine who is to be kept and who is to be released using some consistent method. When deciding between two employees of equal ability, consider whether length of service or the individual's personal characteristics or responsibilities should be the deciding factor. In any event, be fair, be consistent and let employees know the basis for such decisions.
15. If an employee's work attitude or conduct is not satisfactory, try to help. Talk over the deficiencies with the employee; try to find out the reasons. Arrange for further training if needed. Consider a transfer to a job for which an employee may be better suited.
16. Misfits and unsatisfactory employees should be disciplined and, when necessary, terminated. They are usually the first to create dissension. Handle discharges in a straight-forward manner without delay - attempt to part as friends.

LIST OF DO'S AND DON'TS FOR SUPERVISORS IN A UNION ORGANIZING DRIVE

WHAT YOU AS A SUPERVISOR CAN DO:

1. Tell employees that you and the employer prefer to deal with them directly rather than through an outside organization regarding problems arising from day to day.
2. Tell employees that you as a member of management are always willing to discuss with them any subject of interest to them.
3. Tell employees about the benefits they presently enjoy. Avoid veiled promises or threats.
4. Tell employees how their wages, benefits and working conditions compare with other organizations, whether unionized or not.
5. Tell employees of the disadvantages that may result from belonging to a union such as loss of income because of strikes, requirement to serve on a picket line, expense of dues, initiating fees, fines and assessments.
6. Tell employees that, contrary to union propaganda, the law permits the employer to hire a replacement for anyone who engages in an economic strike.
7. Tell employees that no union can make an employer agree to anything it does not wish to or pay any more than it is willing or able to do.
8. Tell employees about any experience you may have had with unions.
9. Tell employees anything you know about any union or its officers.
10. Tell employees that the international union probably will try to dominate the local union or at least try to influence the thinking of the local members.
11. Tell employees about any untrue or misleading statements made through an organizer, or by handbill, or through any medium of propaganda. You may always give employees the correct facts.
12. Tell employees about known racketeering, communist participation or other undesirable activities in the union. (Relate only established facts.)
13. Tell employees your opinion about union policies and union leaders even though in uncomplimentary terms.
14. Distribute reprints of factual articles containing information about unions.
15. Tell employees they are free to join or not to join any organization without prejudice to their status with the employer.
16. Tell employees that merely signing a union authorization card or application for membership does not mean they must vote for the union in an election.

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15. Tell employees they are free to join or not to join any organization without prejudice to their status with the employer.
16. Tell employees that merely signing a union authorization card or application for membership does not mean they must vote for the union in an election.

17. Tell employees about the NLRB election procedure, the importance of voting and the secrecy of the ballot.
18. Tell employees that the employer opposes the principle of compulsory membership.
19. Tell employees about their legal rights. However, there should not be any encouragement or financing of any employee suit or proceeding.
20. Actually campaign against a union seeking representation of your employees.
21. Make or enforce any rules requiring that solicitation of membership or discussion of union affairs be conducted outside of working time. (Remember, however, an employee can solicit and discuss unionism on his own time, even on employer's premises, when it does not interrupt work.)
22. Lay off, discipline and discharge for cause so long as such action follows customary practice and is done without regard to union membership or non-union membership.
23. Make assignments of preferred work, overtime, shift preference, so long as such is done without reference to the employee's participation or non-participation in union activities.
24. Enforce plant rules impartially and in accordance with customary action, irrespective of the employee's membership or activity in a union.

THINGS THAT THE SUPERVISOR CANNOT DO

1. Promise employees a pay increase, promotion, betterment, benefit, or special favor if they stay out of the union or vote against it.
2. Threaten loss of jobs, reduction of income, discontinuance of any privileges or benefits presently enjoyed, or use of any intimidating language which may be designed to influence an employee in the exercise of his right to belong, or refrain from, belonging to a union.
3. Threaten or actually discharge, discipline, or lay off an employee because of his activities on behalf of the union.
4. Threaten, through a third party, any of the forgoing acts of interference.
5. Threaten to close or move the plant or to drastically reduce operations if a union is selected as a representative.
6. Spy on union meetings. Parking across the street from a union hall to watch employees entering the hall would be suspect.
7. Conduct yourself in a way which would indicate to the employees that you are watching them to determine whether or not they are participating in union activities.
8. Discriminate against employees actively supporting the union by intentionally assigning undesirable work to the union employee.
9. Transfer employees prejudicially because of union affiliation.
10. Engage in any partiality favoring non-union employees over employees active on behalf of the union.
11. Discipline or penalize employees actively supporting a union for an infraction which non-union employees are permitted to commit without being likewise disciplined.
12. Make any work assignment for the purpose of causing an employee who has been active on behalf of the union to quit his job.
13. Take any action that is intended to impair the status of, or adversely affect an employee's job or pay because of his activity on behalf of the union.
14. Intentionally assign or transfer employees so those active on behalf of the union are separated from those you believe are not interested in supporting a union.
15. Select employees to be laid off with the intention of curbing the union's strength, or to discourage affiliation with it.
16. Ask employees for an expression of their thoughts about a union or its officers.
17. Ask employees at time of hiring or thereafter whether they belong to a union or have signed a union application or authorization card.

18. Ask employees how they intend to vote.
19. Ask employees about the internal affairs of unions, such as meetings, etc. (Some employees may, of their own accord, walk up and tell of such matters.) It is not a ULP to listen, but you must not ask questions to obtain additional information.
20. Make a statement that you will not deal with the union.
21. Make statements to the employees to the effect that they will be discharged or disciplined if they are active on behalf of the union.
22. Urge employees to try to persuade others to oppose the union or stay out of it.
23. Prevent employees from soliciting union memberships during their free time on employer premises so long as such does not interfere with work being performed by others.
24. Give financial support or assistance to a union, its representatives or members.
25. Visit the homes of members for the purpose of urging them to reject the union.

PRE-ELECTION REMINDERS FOR SUPERVISORS

The National Labor Relations Act guarantees to all employees according to their own choosing the right to assist and participate in union organizational activities and also guarantees the right to refrain from such activities. It is an unfair labor practice (ULP) for an employer or union to interfere with an employee's rights guaranteed by that Act.

A supervisor must not be provoked into arguments with union sympathizers so that he says things out of anger which can provide a background for or be evidence of ULP charges or valid objections to the election by the union (e.g., supervisor to employee: "If the union gets in, you won't be around long!")

In talks with employees, concentrate on those who are on the fence. If certain employees are obviously and irrevocably for the union (e.g., are wearing union buttons and are the solicitors for the union in signing other employees to authorization cards), then at least in the beginning of the campaign most efforts should be directed away from these diehards. Jumping into a discussion with a clique of diehard union sympathizers may result in two versions of what happened - one backed by the supervisor (there is only one of him); the other version, which is or comes close to being a ULP, backed by several union oriented employees.

As a supervisor, you do not have to change employees' attitudes overnight. Generally there will be several weeks in which to campaign. Moving a step at a time will produce the best results.

Analyze the employees (each employee separately, if possible) with whom you will be working to determine what points and arguments will be most influential. A long term employee may be impressed with the organizing union's adverse strike record; a recent hire might give much thought to the cost of belonging to the union; still other employees might react favorably from the employer's point of view to the fact that in upgrading and promotions, abilities likely will be bypassed under a union agreement. A supervisor likely can strike at least one responsive chord with every employee if he analyzes the situation carefully.

An organizing union will put out at least one electioneering bulletin, the principal topic of which addresses itself to the proposition that unionism is good and necessary. When a supervisor argues that unionism per se is bad, he is fighting with much less than all of his potential weapons. The real issue would be, "is a big union good for employees at a small company?"

In any campaign where the issue is "union or not," the one thing which every supervisor should not be is "non-committal." Even at the risk of being over zealous and even if a supervisor innocently should commit a ULP, in the long run it will work out better if the supervisor takes a stand. When employees are on the fence as far as how they will vote, the personal feelings of their supervisor for or against the issue is often determinative. When those representing the employer appear to be in doubt and stand-offish, the employees likely will conclude that the employer doesn't care how they vote. The employees may then vote for the side that appears most interested and most persuasive.

All management representatives must remember that anything that is said or done by them in connection with union organizational activities may be considered to have been said or done by the employer itself. All representatives of management, therefore, must steer away from conduct which obviously interferes with the employees' right to a free choice in deciding whether they wish to participate in union organizational activities or to join a union.

UNION CONDUCT THE EMPLOYER SHOULD LOOK FOR DURING ELECTIONS

All management and supervisory personnel should review the following list of activities considered unlawful by the NLRB and which will cause an election to be set aside. It is important to advise supervisors and other management personnel that, when they see acts which either are or could be violations of the law in their judgment, they should immediately reduce their observations to writing. The time, date, statement that was made or act observed, parties involved in the statement or act, and any additional relevant data should be noted in writing as soon after the act or statement occurs as is possible.

1. Violence or threats of violence aimed at non-supporters of a union is sufficient to set aside an election. If an employee contacts an employer representative (supervisor) and tells you about violence or the threat of violence by a union aimed at non-supporters, try to get him to give you a written statement of what happened and ask him to sign it.
2. If you learn that the union has offered to waive initiation fees if it wins the election, make sure it applies to all employees and does not depend on how the individual employee votes. A waiver offer depending on how an employee votes is viewed as coercive by the Board.
3. It is not permissible for a union to induce employees to sign authorization cards by saying that those who sign will pay less dues or initiation fees than those who do not sign.
4. Material misrepresentations by the union that are difficult to respond to by the employer before the election date, or when employees could not determine the true facts before the election date, are also cause for an election to be upset.
5. Union sound trucks or similar devices, at or near the plant during the 24 hour period immediately preceding the election also are grounds for upsetting an election.
6. Mass picketing or the blocking of entrances is forbidden.
7. Violence and/or threat of violence against supervisors are also cause for setting aside an election.
8. Organizers often tell employees, "The union is stronger than you. You cannot fight a union and win," or "There may be trouble if an employee refuses to sign a card," or "A threat of loss of work to an employee if he fails to vote for the union," are all examples of unlawful coercion by the union. Note that it is not necessary to require proof that such coercive conduct has affected employees statutory rights - the employer merely has to prove that it tends to restrain or coerce employees.
9. Electioneering by union advocates at or near the polling place or union officials at or near the polling place may be cause to upset an election.

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10. Written union material (cartoons, pictures, leaflets, etc.) should be carefully reviewed for its potential impact to restrain or coerce employees in the exercise of their statutory right.
 11. Appeals to racial prejudice by the union will normally upset an election.

CONDUCT THE UNION LOOKS FOR DURING ELECTIONS

1. Violation of the 24 hour rules. The employer is precluded from making election speeches (large or small groups) during work hours 24 hours before the scheduled time for conducting the election (Peerless Plywood company rule).
2. The presence of management personnel (including supervisors) at or near the polling place is sufficient to set aside an election (Belk's Department Store). It would be wise to make sure that all management personnel are advised to stay away from the polling place during the hours of election.
3. Campaign Propaganda - when one of the parties deliberately misstates material facts which are within its special knowledge, under such circumstances that the other party or parties cannot learn about them in time to point out the misstatements, and the employees themselves lack the independent knowledge to make possible a proper evaluation of the misstatements, the Board will find that the bounds of legitimate campaign propaganda have been exceeded and will set aside an election (U.S. Gypsum). This is a very tricky area and anything that is put in writing should be checked with counsel to determine whether or not it would be considered as a material misrepresentation by the Board.
4. Cartoons or pictures must also be carefully screened and reviewed by counsel before posting; for example, a picture of a closed down plant with its windows and doors boarded up and a "closed" sign nailed to the boarded door has been enough to upset an election.
5. The Board is particularly sensitive about appeals to racial prejudice and almost without exception an election will be upset because of it.
6. Sudden actions which operate to the benefit or detriment of employees in the plant (unless announced well in advance or unless justified by prior employer conduct) will upset an election. The key factor in determining a violation in this area is the presence or absence of "anti-union animus." If the change had been planned for some time notwithstanding it happens during the union election, it is unlikely the election will be set aside. The same is true for wage increases that are part of a continuing and well established policy. (The employer, however, carries the burden of explaining away why the action was taken during the election campaign.)
7. The employer should be very careful about interviewing individual employees or small groups of employees in private, non-work areas. A supervisor can talk to individual employees in their work area and the employer may talk to groups of employees in non-work areas, but pulling an individual out of his normal environment into an area that could be considered "coercive" is a very dangerous practice.
8. Management personnel may not visit employees at their homes. However, supervisors who have personal friendships with employees may visit their homes provided the purpose is social versus anti-union campaigning. If their visits are for social

purposes, then it does not matter that the subject of unions comes up. Supervisors can also discuss the union at bars, restaurants and similar public places.

9. Marking an official NLRB sample ballot will almost always set aside an election. It is wise to run regular tours around the plant to make sure NLRB sample ballots have not been marked up. If you find some in that condition, take them down immediately and replace them.
10. A private polling of employees just prior to an election will upset an election.
11. Making a list of employees who actually vote will also upset an election.
12. The checkoff gimmick is permissible provided the employer does not misrepresent the amount of dues deducted or a legal rule (e.g., saying all employees will be forced to pay union dues if the union gets in - in a right to work state).
13. Employers may work to get out the vote and may offer transportation to voters, but they cannot evidence in the eyes of the Board that they have concentrated on only anti-union workers.
14. An employer may not prevent union solicitation during non-working time (e.g., coffee breaks, lunch periods) or in non-working areas (locker rooms, parking lots, etc.). However, if an employee spends more than a reasonable amount of time in the restroom, he may be disciplined on that ground.
15. The employer cannot spy on employees' union activities (e.g., taking pictures of employees receiving or distributing literature, sending supervisors or other employees to see who attends union meetings, tapping telephones.) Even creating the appearance of such surveillance may constitute a violation.
16. Asking a supervisor or an employee to furnish the employer with a list of union activities is unlawful.
17. Questioning employees as to their union activities is unlawful. However, supervisors should be advised that they can and should talk to employees about the advantages of not having a union (be careful not to promise benefits), the disadvantages of having a union (be careful not to threaten or coerce) and about personal matters related to the employee on any subject not associated with their union activities. Note that if the employee starts telling the supervisor about union activities, union activists, union strategy, it is perfectly legal to listen. Obviously, supervisors should be instructed, without making it look obvious, to get this information back to the employer campaign leaders for evaluation.
18. In the event the employer considers the union guilty of a ULP, the employer may interrogate individual employees for the purpose of preparing the case before the NLRB provided the questions are relevant to the issues.
19. Opinions, views and arguments are proper and should be used at every opportunity provided they do not contain threats or promises either express or implied. Again, when in doubt, check with counsel.

20. Should you have a disloyal supervisor, it is perfectly lawful to fire him for joining or assisting a union. However, he cannot be fired for permitting workers, covered by the Act, to (a) engage in union activity or (b) refuse to spy on employees.
21. If members of the community, local associations, newspapers, radios and the like campaign on your behalf, it is wise to advise your employees that their activities are on their own and that although the employer cannot prevent their activity, the employer wants employees to know it is not associated with it.
22. The employer has the right to discharge or discipline any employee (pro-union or anti-union) for just cause during a campaign. It is important to note, however, that just cause must be proven. Promotions, demotions and transfers must also be for bona fide reasons.

INSTRUCTIONS TO OBSERVERS

1. Your principal job is to guarantee only employees on the employer's eligibility list should be allowed to vote without challenge.
 - a. As long as an election observer advances good faith doubt that a voter should not participate in the voting, the Board agent may not deny him the exercise of this privilege. Good faith reasons are:
 - (1) A claim that voter is not an employee or is no longer employed by the employer (on permanent layoff, a quit, or a discharge).
 - (2) A claim that voter falls within an excluded group (office clerical, technical, professional, guard, confidential employee, etc.).
 - (3) A claim that voter was not on the payroll on the designated eligibility date.
 - b. If the Board agent does not allow the challenge, the observer should not sign a statement that the Board properly conducted the election (this amounts to grounds for election objections).
2. Record instances of campaigning by union observers or pro-union voters at the place of election. Write down the name of the observer or employee involved, try to state what was said and register the time it occurred.
3. Record instances wherein you feel the Board agent conducting the election may be partial toward the union.



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